

## Ann Diers

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**From:** Don Kraus [dkraus@cnpid.com]  
**Sent:** Monday, December 19, 2005 5:06 PM  
**To:** Ann Diers  
**Cc:** Dennis Strauch; Brian Barels  
**Subject:** 46-229.04



12-19-05 DNR  
Rules.doc (20 KB)...

Attached is a draft of the 46-229.04 section we discussed today. This is currently being reviewed by Steve Smith who will contact Dennis Strauch. I think these changes will address our concerns with the language.

Don

(5) When an appropriation is held in the name of an irrigation district, reclamation district, public power and irrigation district, or mutual irrigation company or canal company and the director determines that water under that appropriation has not been used on a specific parcel of land for more than five years and that no sufficient cause for such nonuse exists, the right to use water under that appropriation on that parcel shall be terminated and notice of the termination shall be posted on the department's web site and shall be given in the manner provided in subsection (2), (3), or (4) of section 46-229.03. The district or company holding such right shall have five years after the determination, or five years after an order of cancellation issued by the department following the filing of a voluntary relinquishment of the water appropriation that has been signed by the landowner and the appropriator of record to assign the right to use that portion of the appropriation to other land within the ~~district or the area~~ and served by the ~~district or company~~, ~~or~~ to file an application for a transfer in accordance with section 46-290 or to transfer the right in accordance with sections 46-2,127 through 46-2,129. The Department must issue its order of cancellation within 60 days of receipt of the voluntary relinquishment. The department shall be notified of any such assignment within thirty days thereafter. If the district or company does not assign the right to use that portion of the appropriation to other land, does not file an application for a transfer within the five-year period, or does not notify the department within thirty days after any such assignment, that portion of the appropriation shall be canceled without further proceedings by the department and the district or company involved shall be so notified by the department. During the time within which assignment of a portion of an appropriation is pending, the allowable diversion rate for the appropriation involved shall be reduced, as necessary, to avoid inconsistency with the rate allowed by section 46-231 or with any greater rate previously approved for such appropriation by the director in accordance with section 46-229.06.

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